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Fiscal Note

Drafting Number: LLS 21-0050 Date: March 29, 2021
Prime Sponsors: Rep. Roberts; Jodeh Sen. Donovan Bill Status: House Health & Insurance
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Bill Topic: STANDARDIZED HEALTH BENEFIT PLAN COLORADO OPTION

- Summary of Fiscal Impact:
[X] State Revenue [] TABOR Refund
[X] State Expenditure [] Local Government
[X] State Diversion [X] Statutory Public Entity

The bill directs the Commissioner of Insurance to develop a standardized health insurance plan that may be offered by private health insurance carriers; requires these carriers to establish premium reduction goals; and creates a nonprofit public entity to offer health insurance if carriers do not meet premium reduction goals. It increases state expenditures and creates a General Fund diversion beginning in FY 2021-22. Conditionally, the bill will increase revenue and expenditures for the nonprofit public entity if it begins operating as a health insurance carrier in FY 2024-25.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$753,633 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 21-1232

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Diversions (General Fund, Cash Funds, Net Diversion), and TABOR Refund.

Summary of Legislation

The bill directs the Commissioner of Insurance to develop a standardized health insurance plan that may be offered by health insurance carriers. Carriers are encouraged to offer the standardized plan, and required to set goals for reducing premiums. The Colorado Option Authority is created as a nonprofit public entity to offer health insurance if carriers do not meet premium reduction goals.

Standardized health insurance plan. By January 1, 2022, the commissioner must establish, by rule, a standardized health insurance plan that can be offered by private health insurance carriers in the individual and small group markets. The plan must offer coverage at the bronze, silver, and gold coverage levels, and include all essential health benefits. The plan may be updated annually.

Beginning January 1, 2023, insurance carriers are encouraged to offer the standardized plan in any zip code where they currently offer coverage in the individual and small group markets. Each carrier that offers a standardized plan is required to set a goal of offering the plan at a premium rate that is below the 2021 rate for health insurance plans offered by the carrier in that respective market by at least 10 percent in 2023 and 20 percent in 2024. Cost-shifting from the standardized plan to another plan that requires state approval is prohibited.

Colorado Option health insurance. The Colorado Option Authority is created as a nonprofit unincorporated public entity to operate as a health insurance carrier. The Authority must offer individual and small group market health insurance (referred to as the Colorado Option) if all carriers fail to meet the premium rate reduction goals described above. Implementation and operation of the Authority is contingent upon federal approval and receipt of federal funds.

The Authority is defined as an instrumentality of the state; except that debts and liabilities of the Authority do not constitute debts and liabilities of the state. The Authority is not a state agency. It is governed by a 9-member board appointed by the Governor and confirmed by the Senate. The board must appoint an advisory committee to make recommendations concerning the Colorado Option.

Provider participation and reimbursement. Health care providers are required to accept patients who are enrolled in any Colorado Option plan offered by the Authority. Failure to do so is deemed grounds for professional discipline. Providers will be reimbursed according to a schedule established in rule by the commissioner. The reimbursement schedule must be designed to achieve at least 20 percent premium reductions for 2025 plans relative to plans offered by carriers in 2021. The schedule may account for circumstances of hospitals and providers that serve uninsured individuals or those covered by other public health insurance plans; these providers may be reimbursed at modified rates or exempted from the reimbursement schedule. The schedule must be available to other health plans, as determined by the commissioner.

Federal waiver. The commissioner must seek a State Innovation Waiver from the federal Department of Health and Human Services to implement the bill and to identify savings to the federal government attributable to the bill. Upon approval of the federal government, a portion of the savings generated may be passed through to the state. This pass-through funding may be used for the establishment of the Authority and for the Colorado Health Insurance Affordability Enterprise to increase the value, affordability, quality, and equity of health care coverage in Colorado.

Repeal. The Authority is repealed if a national public option program is established that meets or exceeds premium reduction goals defined in the bill.

Background

Colorado's individual and small group markets. In 2019, an estimated 204,000 individuals received health insurance coverage in Colorado's individual market. Another 267,000 individuals received coverage in the small group market, which consists of plans for employers that have fewer than 100 employees. About 375,000 Coloradans are estimated to be uninsured.

Federal premium subsidies. In 2019, Coloradans received about \$749 million in federal advance premium tax credits to purchase health insurance through Connect for Health Colorado, the state's health insurance exchange. These subsidies, established in the federal Affordable Care Act, are based on household income, premium amount paid, and the cost of a benchmark health plan. Subsidies are available to persons with income between 133 and 400 percent of the federal poverty level. Adults with income up to 133 percent of the federal poverty level are eligible for Medicaid. Children, the elderly, and persons with disabilities are also eligible for Medicaid at various income levels.

State innovation waivers. Section 1332 of the federal Affordable Care Act allows states to apply for waiver of various requirements of the federal law to pursue innovative strategies for providing residents with access to high-quality, affordable health care. These waivers allow states to receive federal "pass-through" funds based on estimated savings to the federal budget from reduced advance premium tax credits or other federal spending.

Health insurance coverage levels. Plans sold on the health insurance exchange are differentiated based on how costs are split between the insurer and covered individual. Bronze, silver, and gold levels indicate plans that provide benefits actuarially calculated to be sixty, seventy, and eighty percent, respectively, of the full value of benefits provided under the plan.

State Revenue

State revenue may increase from fines issued to providers or health facilities that fail to accept patients enrolled in a Colorado Option plan or that bill patients in excess of the reimbursement schedule. The fiscal note assumes a high level of compliance and that any fine revenue will be minimal. Fine revenue is deposited into the General Fund and is subject to state revenue limits under TABOR.

State Diversions

The bill diverts an estimated \$868,684 from the General Fund to the Division of Insurance (DOI) Cash Fund in FY 2020-21, and \$676,023 in FY 2021-22. This revenue diversion occurs because the bill increases costs in the DOI, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

State expenditures include costs to establish and implement the standardized plan to be offered by private health insurance carriers, as well as to seek federal approval of a State Innovation Waiver. These costs are estimated to be \$868,684 and 3.5 FTE in FY 2021-22, and \$790,424 and 4.9 FTE in FY 2022-23. These costs are shown in Table 2 and described below.

The potential impacts of the Colorado Option Authority functioning as a health insurance carrier beginning in 2025 or later are described below in the Statutory Public Entity section of this fiscal note.

Table 2
Expenditures Under HB 21-1232

Cost Components	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$203,978	\$234,885
Operating Expenses	\$3,375	\$3,915
Capital Outlay Costs	\$18,600	-
Actuarial Consultant	\$210,000	\$120,000
Healthcare Consultant	\$105,000	-
Legal Services	\$212,680	\$212,680
Centrally Appropriated Costs ¹	\$115,051	\$104,543
FTE – Personal Services	2.5 FTE	2.9 FTE
FTE – Legal Services	1.0 FTE	1.0 FTE
DORA Subtotal	\$868,684	\$676,023
Department of Health Care Policy and Financing		
Personal Services	-	\$82,763
Operating Expenses	-	\$1,350
Capital Outlay Costs	-	\$6,200
Centrally Appropriated Costs ¹	-	\$24,088
FTE – Personal Services	-	1.0 FTE
HCPF Subtotal	-	\$114,401
Total	\$868,684	\$790,424
Total FTE	3.5 FTE	4.9 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. Beginning in FY 2021-22, the Division of Insurance requires new staff to develop and implement the standardized plan, review associated carrier rate and form filings, manage consultants, and develop the federal waiver. In FY 2022-23, additional staffing is needed to engage with stakeholders, manage the ongoing waiver-related work, and begin developing a provider reimbursement schedule for the Colorado Option plan in the event it is implemented.

DOI will require consultants to accomplish this work. An actuarial consultant is needed to assist in developing the standardized plan, assist in developing the fee schedule, evaluate whether premium targets are achieved, and support the waiver; this is estimated to require 525 hours in FY 2021-22 and 300 hours in FY 2022-23 through FY 2024-25, at a rate of \$400 per hour. A healthcare consultant is needed in FY 2021-22 only to develop the waiver and assist in designing standardized plan benefits; this is estimated to require 350 hours at a rate of \$300 per hour. Lastly, legal support from the Department of Law is needed for rulemaking and enforcement, estimated at 2,000 hours at the standard legal services rate of \$106.34 per hour.

These costs are paid from the DOI Cash Fund. If federal pass-through funding becomes available, costs associated with establishing the Colorado Option plan can be paid with these federal funds. If the Colorado Option plan becomes operational in 2025 or later, these costs are assumed to phase out as responsibility for running the public option shifts to the authority, although the timetable for this is not yet known. Any such budget adjustments must be accomplished through the annual budget process.

Federal pass-through funding. If Colorado is granted a State Innovation Waiver, the state may receive federal funds based on savings to the federal budget attributable to this bill. These savings may result from either the standardized plan or the Colorado Option plan. The bill specifies that pass-through funds can be spent to establish the Authority for the purpose of offering the Colorado Option, and for value, affordability, quality, and equity related purposes through the Colorado Health Insurance Affordability Enterprise. It is estimated that the state could receive up to \$88 million in federal pass-through funding per year.

Department of Health Care Policy and Financing. The commissioner is required to consult with HCPF to inform health care providers of the Colorado Option reimbursement schedule and to make decisions regarding modifying the schedule or exempting certain providers. This work is assumed to begin in FY 2022-23, as DOI's work to develop the reimbursement schedule commences. HCPF's workload is ongoing conditional upon the Colorado Option plan being offered. These costs are paid from the General Fund.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$115,051 in FY 2021-22 and \$128,631 in FY 2022-23.

Statutory Public Entity

Colorado Option Authority

If health insurance carriers do not meet premium reduction goals established by the bill and federal approval is received, the Colorado Option Authority is required to offer the Colorado Option health insurance plan. This could begin as soon as 2025. The Authority will operate independently from the state and, like any insurance carrier, its revenue and expenditures will depend on the number of customers that sign up for coverage and their medical expenses. Because of this, and the fact that it is unknown if or when the Authority will begin operating, the fiscal note cannot provide a detailed estimate of revenue and expenditures for the Authority. However, the fiscal note describes the potential revenue and the expenditures for the Authority below.

Revenue. If it begins operating, the Authority will likely receive hundreds of millions of dollars in premium revenue, depending on the share of the individual and small group markets it covers. It will also receive federal pass-through funding. Premium and federal revenue to the authority do not count toward the state's TABOR limit. While actual enrollment, premiums, and revenue cannot be estimated, Table 3 shows three potential revenue scenarios for informational purposes.

Table 3
Premium Revenue Scenarios Under HB 21-1232

Potential Enrollment	Average Premium¹	Total Premium Revenue
5,000	\$6,000	\$30 million
50,000	\$6,000	\$300 million
200,000	\$6,000	\$1.2 billion

Expenditures. Costs of the Authority will consist of medical services payments to providers, staff, IT systems, office space, consultants, and board-associated costs, among others. These costs will scale in proportion to enrollment. It is assumed that at least 85 percent of revenue received from premiums will go toward medical expenses, as required under federal standards for insurers' medical-loss ratios. It is assumed that a federal pass-through money generated in 2023 and 2024 will be used to cover start-up expenses and the initial capitalization of the Authority.

Connect for Health Colorado

The state's health insurance exchange is funded primarily through a health insurance carrier fee charged on plans purchased through the marketplace. The fee is set at 3.5 percent of premiums for 2021. To the extent that the bill decreases some premiums and increases the number of policies purchased, this will have an offsetting impact on revenue to the exchange; the net impact of these effects is not estimated. In addition, the exchange will incur one-time costs to update marketing materials, technology, data collection, and reporting practices.

¹ Major medical coverage premiums in 2019 on the individual market averaged \$7,200 per year on-exchange and \$6,600 off-exchange. Small group major medical plan premiums averaged \$3,000 per year on-exchange and \$5,400 off-exchange.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$753,633 to the Department of Regulatory Agencies from the Division of Insurance Cash Fund, and 2.5 FTE. Of this amount, \$212,680 is reappropriated to the Department of Law for legal services with an additional allocation of 1.0 FTE.

State and Local Government Contacts

Connect For Health Colorado	Governor
Regulatory Agencies	Judicial
Health Care Policy and Financing	Higher Education
Information Technology	Law
Public Health and Environment	Personnel

Demographic Note

Legislative Council Staff is preparing a Demographic Note for this bill. To access the note or check its status, please visit the General Assembly website using the link below.

<https://leg.colorado.gov/agencies/legislative-council-staff/demographic-notes>